

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 94019**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-116-94**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### Nevada State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [XX] Temporary [ ] Emergency [ ]

**Brief description of action:** Petition 94019 (LCB R-116-94) by the Nevada Division of Environmental Protection permanently amended NAC 444 and 444A governing the disposal of waste tires. This adopted regulation covers procedures to permit tire recycling facilities, provides for the development of a registration system for waste tire haulers, and establishes standards for the disposal of waste tires at disposal sites.

**Authority citation other than 233B:** NRS 444.560 and 444A.020.

**Notice date:** October 10, October 18, and October 26, 1994.

**Hearing date:** November 9, 1994.

**Date of Adoption of Agency:** November 9, 1994.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 94019  
LCB R-116-94**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 444 and 444A by the State Environmental Commission (SEC).

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Petition 94019 was noticed three (3) times: October 10, October 18 and October 26, 1994 in the Las Vegas Review Journal and Reno Gazette-Journal newspapers. One general public comment were received from Fred Couzens, private citizen regarding this petition. Mr. Couzens comments focused on why the threshold on the number of tires exempted on site; the need to clarify financial assistance requirements, how the permitting period could be shortened, whether modification to facilities managing waste tires will have a economic test applied, that waste tire facilities should not have financial assurance requirements, why fees are not required to process permits and that the regulation should consider the resource value of waste tires. Comments and hearing minutes may be secured from the Office of the State Environmental Commission, 333 W. Nye Lane, Room 128, Carson City, Nevada 89710.

**2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Written comments from businesses were received ; Thomas M. Kiec, TireOil, Inc.; Bill Upton and Duane Whiting of the Nevada Mining Association; and Tom Green, REFUSE, INC. regarding this petition. In addition comments were received at the hearing from Tom Isola of Silver State Disposal. Comments suggested delaying action on the regulations until the legislature considers the waste tire plan, smaller landfills will find it difficult to deal with waste tires, that this regulation will encourage the dumping of waste tires, that mining operations should continue to be exempt from the provisions, that the term baled should be stricken from the regulation, that a mininum size reduction when tires are split or chipped should be mandated, that a solid waste disposal facility should have other options to dispose of waste, a solid waste facility should be allowed to set aside waste tires, that "tire jockeys" should be regulated, that waste tires after conversion to a recyclable product be allowed to use common carriers, and that an additional fee be imposed on waste tire contributors. Comments and hearing minutes may be secured from the Office of the State Environmental Commission, 333 W. Nye Lane, Room 128, Carson City, Nevada 89710.

**3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulations were adopted at the SEC hearing on November 9, 1994 with minor changes that reflected the concerns addressed in the written comments received.

**4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

- a. The adopted regulations may have a positive economic effect on the public if the costs associated with extinguishing tire fires and landfill cap damage are avoided. There may be a negative economic effect on the public if the cost of disposal increases as the result of the new handling standards or if tires are directed away from disposal and toward a more expensive form of managements. It is not expected that the added expense will exceed \$.50/tire.
- b. There are no immediate or long-term economic effects on regulated sources. There are no immediate or long-term economic effects on the public.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

The cost to the NDEP of administering the adopted regulations depends on the number of waste tire facilities and waste tire haulers operating in the State. Staff time will be required for; 1) review of waste tire facility permit applications, 2) inspections of facilities that are issued permits, 3) registration of waste tire haulers and review of semi-annual reports, and 4) administrative implementation of disposal restrictions. It is not expected that a large number of waste tire facilities will be proposed, and the number of waste tire haulers is expected to remain constant.

**6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**

The adopted regulations do not duplicate or overlap with the regulations of any other State or government agency.

# CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

## LCB File No. R116-94

EXPLANATION--Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AUTHORITY: NRS 444.560 and 444A.020

**Section 1.** NAC 444.648 is hereby amended to read as follows:

444.648 1. Disposal of waste tires by open dumping **[into ravines, canyons, gullies or trenches]** is prohibited.

2. Disposal of waste tires by open burning is prohibited.

3. Bulk quantities of *waste* tires which are disposed of by landfilling and which are not incorporated with other wastes in a **[general]** landfill *for which a permit has been issued by a solid waste management authority pursuant to NAC 444.6405* must be **[baled,]** chipped, split **[, stacked by hand ricking]** or otherwise handled in a manner **[provided for in the operational plan and]** approved by the solid waste management authority **[that will prevent whole tires from surfacing, posing a fire hazard, providing harborage for vectors, or causing any other potential risk to the public or environment.**

4. Bulk quantities of tires, if incorporated in a general landfill with other wastes, should be placed on the ground surface on the bottom or at the top of the fill and covered with a suitable cover material before other wastes are placed over them. In no case are waste tires allowed in the top 4 feet of the final lift.] *which:*

*(a) Prevents tires from resurfacing after the have been covered;*

*(b) Reduces the possibility of a fire at the landfill;*

*(c) Controls vectors; and*

*(d) Otherwise protects the environment and public health.*

**Sec. 2.** Chapter 444A of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 30, inclusive, of this regulation.

**Sec. 3.** *As used in sections 4 to 30, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

**Sec. 4.** *"Facility for the management of waste tires" means a site where waste tires are deposited for processing, recycling or use as a fuel.*

**Sec. 5.** *"Generator of waste tires" means a person who possesses a tire at the time it becomes a waste tire, or at any time thereafter, until it is deposited with a facility for the management of waste tires or given to a hauler of waste tires.*

**Sec. 6.** *"Hauler of waste tires" means a person who transports waste tires or materials derived from waste tires over the highways of this state. The term does not include a:*

*1. Collector of solid waste who operates pursuant to a license issued by a local government;*

*2. Person who generates and transports his own waste tires;*

3. *Governmental agency;*
4. *Person who transports used tires to be resold or retreadable casings to be retreaded;*
5. *Person who transports tires across state boundaries, but does not load or unload waste tires within this state;*
6. *Person who is directed by a solid waste management authority to transport waste tires for disposal; or*
7. *Person who transports products for resale or reuse derived from waste tires.*

*Sec. 7. "Passenger tire equivalent" means a measure of waste tires or material derived from waste tires that is expressed as an equivalent number of passenger tires, where one waste tire or 20 pounds of material derived from waste tires equals one passenger tire equivalent.*

*Sec. 8. "Processing" means preparing a waste tire for recycling, use as a fuel or disposal in a landfill by chipping, splitting or otherwise altering a tire.*

*Sec. 9. "Solid waste management authority" has the meaning ascribed to it in NAC 444.624.*

*Sec. 10. "Waste tire" means a tire that is not fit for use as a tire.*

*Sec. 11. 1. Except as otherwise provided in subsection 2, the owner or operator of a facility for the management of waste tires shall not accept waste tires for processing, recycling or for use as a fuel until he obtains a permit to operate a facility for the management of waste tires from the solid waste management authority.*

*2. The following businesses are not required to comply with subsection 1:*

- (a) A business which retreads tires and stores less than 3,000 passenger tire equivalents on the premises.*
- (b) A retail dealer of tires, or any other business that removes tires from motor vehicles, which stores less than 1,500 passenger tire equivalents on the premises.*
- (c) A disposal site which is authorized by the solid waste management authority to store waste tires or deposit waste tires in a landfill.*
- (d) Any business which stores less than 500 passenger tire equivalents on the premises.*

*Sec. 12 Each applicant for a permit to operate a facility for the management of waste tires must complete an application on a form prescribed by the solid waste management authority. The application must include:*

- 1. The name of the owner and operator of the facility;*
- 2. The address of the location of the facility;*
- 3. A plan of operation which complies with the requirements set forth in sections 17 and 18 of this regulation;*
- 4. A plan of the area where the tires will be stored at the facility which includes:*
  - (a) The arrangement and size of the piles of tires in the storage area;*
  - (b) The width of the fire lanes;*
  - (c) A description of the types of equipment to be used to control fires;*
  - (d) The location of the equipment to be used to control fires;*
  - (e) The location of each building at the facility; and*
  - (f) The methods to be used to control access to the facility;*
- 5. An estimate of the number of passenger tire equivalents the facility will receive each year;*
- 6. A description of the final use for the waste tires deposited or the available market for the material derived from tires after it is processed;*
- 7. Proof of compliance with any applicable ordinances or other requirements of the state or local governments for permits;*

**8. Procedures to be used if a fire occurs as the facility must be reviewed by the local emergency planning committee appointed by the state emergency response commission.**

**9. A copy of the plan to demonstrate financial assurance required by sections 24 and 25 of this regulation; and**

**10. Any other information required by the solid waste management authority.**

**Sec. 13. A solid waste management authority shall, within 45 days after receiving an application for a permit to operate a facility for the management of waste tires, notify the applicant whether his application is complete. The solid waste management authority shall base its determination on whether the application contains all the documents and information required by section 12 of this regulation. The solid waste authority may require the applicant to submit any additional documents or information it deems necessary.**

**Sec. 14. 1. A solid waste management authority shall complete an evaluation of an application for a permit to operate a facility for the management of waste tires within 30 days after notifying the applicant that his application is complete.**

**2. Upon completion of the evaluation, the solid waste management authority shall:**

**(a) Issue to the applicant a notice of intent to issue or deny the permit; and**

**(b) Issue a public notice stating whether it intends to issue or deny the permit.**

**The public notice must include a fact sheet which describes:**

**(1) The proposed facility;**

**(2) The proposed action;**

**(3) The availability of the documents which were evaluated; and**

**(4) The procedures for public review and comment.**

**Sec. 15. 1. A solid waste management authority shall provide a period for the public review of an application for a permit to operate a facility for the management of waste tires. The period for public review is 30 days and begins on the date the solid waste management authority issues public notice pursuant to subsection 2 of section 14 of this regulation. During this period, the applicant or any other interested person may submit to the solid waste management authority written comments concerning the permit. The period for public review may be concurrent with any other period for public review required by a local government for issuing permits.**

**2. Within 15 days after the period for public review has ended, the solid waste management authority shall issue the permit or provide written notice to the applicant which sets forth the reasons for the denial of the permit.**

**Sec. 16. A permit to operate a facility for the management of waste tires which is issued by a solid waste management authority:**

**1. Must be issued to a specific owner or operator;**

**2. Is not transferable;**

**3. Is valid for 5 years;**

**4. May be renewed;**

**5. May be modified by the solid waste management authority if the statutes or regulations upon which the permit is based are amended or if a modification is otherwise necessary to protect the environment or public health;**

**6. May be revoked or suspended upon written notice by the solid waste management authority if the holder of the permit does not comply with applicable statutes or regulations or the conditions upon which the solid waste management authority issued the permit; and**

*7. May be modified by the owner or operator if the modification is approved by the solid waste management authority. The owner or operator must submit a written request for a modification of the permit to the solid waste management authority. A proposed modification of a permit may be subject to public notice and 30 days of public review if the solid waste management authority so requires.*

*Sec. 17. 1. At least 120 days before a permit to operate a facility for the management of waste tires expires, the solid waste management authority shall send to the holder of the permit:*

*(a) A notice which informs the holder that he must renew his permit to continue operations; and*

*(b) An application to renew the permit.*

*2. The holder of a permit who wishes to renew his permit must:*

*(a) Submit an application for renewal to the solid waste management authority at least 60 days before the permit expires;*

*(b) Provide any information concerning the operation of the facility that was not submitted with his application for the initial permit or the renewal of the permit; and*

*(c) Revise any information that has changed since he last submitted an application for the permit to the solid waste management authority.*

*3. If the solid waste management authority does not renew the permit before its expiration, the holder of the permit may continue to operate the facility pursuant to the terms and conditions of the permit until the solid waste management authority issues or denies a new permit.*

*Sec. 18. 1. The owner or operator of a facility for the management of waste tires shall not store more than 5,000 passenger tire equivalents on the premises of the facility unless he has written approval from the solid waste management authority.*

*2. An owner or operator of a facility for the management of waste tires who stores tires, upon request from the solid waste management authority, shall produce evidence that the facility complies with the provisions of chapter 477 of NAC.*

*3. Any area in which tires are stored outside of a building located at the facility must be enclosed with a fence that limits access to the area.*

*Sec. 19. 1. The owner or operator of a facility for the management of waste tires shall:*

*(a) Design and construct the facility to ensure that:*

*(1) Runoff of water from the surface of the property is directed away from the area used to store tires; and*

*(2) Waters of the state are protected from potential runoff resulting from extinguishing a fire at the facility. As used in this subparagraph, "waters of the state" has the meaning ascribed to it in NRS 445.191.*

*(b) Control vectors to protect public health and welfare. As used in this paragraph, "vector" has the meaning ascribed to it in NAC 444.630.*

*2. If a facility for the management of waste tires receives tires from a person other than the operator of the facility, an attendant must be present when the facility is open for business.*

*3. Before the operator of a facility for the management of waste tires may begin operation of the facility, he shall insure that each area where waste tires are cut, chipped, ground or otherwise altered has the equipment which is necessary to process waste tires in operating condition.*

*4. A facility for the management of waste tires must have a final use for the waste tires deposited or an available market for the material produced from processing the waste tires to ensure that at least 75 percent of the waste tires deposited are used or removed from the facility as processed material for recycling or disposal within 12 months after receipt.*



**Sec. 20. The owner or operator of a facility for the management of waste tires shall adopt and carry out procedures to be used if a fire occurs at the facility. The procedures must include:**

- 1. The name and telephone numbers of each person who will be notified if a fire occurs;**
- 2. A list of the equipment to be used in response to a fire at the facility, the location of that equipment and the manner in which the equipment will be used if a fire occurs; and**
- 3. A description of the procedure that must be followed if a fire occurs.**

**Sec. 21. 1. The owner or operator of a facility for the management of waste tires shall include in the records kept at the facility:**

- (a) Copies of the manifests required by section 28 of this regulation; and**
  - (b) The following information, if applicable:**
    - (1) The number of passenger tire equivalents or tons of material processed from tires received, stored and shipped at the facility.**
    - (2) The names and registration numbers of haulers of waste tires who transport each shipment to and from the facility. If a hauler is not required to be registered, the record must include his address.**
    - (3) The origin of each shipment of waste tires to the facility and the destination of each shipment from the facility.**
    - (4) A copy of the plan for financial assurance required by sections 24 and 25 of this regulation.**
- 2. The owner or operator of the facility shall maintain the records required by subsection 1 for at least 3 years, and make them available for inspection by the solid waste management authority during regular business hours.**

**Sec. 22. The owner or operator of a facility for the management of waste tires shall submit an annual report to the solid waste management authority not later than March 1 of each year. The owner or operator shall:**

- 1. Submit the report on a form prescribed by the solid waste management authority;**
- 2. Include a summary of the information described in subsection 1 of section 21 of this regulation in the report; and**
- 3. Include any other information described in the report which is required by the solid waste management authority.**

**Sec. 23. 1. An owner or operator of a facility for the management of waste tires who wishes to close that facility shall:**

- (a) Prohibit public access to the facility; and**
  - (b) Post a notice at the facility stating that the facility is closed and the name and address of the nearest facility for the management of waste tires.**
- 2. Within 12 months after a facility for the management of waste tires is closed and, according to a schedule approved by the solid waste management authority, the owner or operator of the facility shall remove from the facility any waste tires and material derived from waste tires.**

**Sec. 24. 1. The owner or operator of a facility for the management of waste tires shall estimate the costs of processing and removing or disposing of all waste tires or material derived from waste tires at the facility. The owner or operator shall base his estimate on:**

- (a) The maximum amount of waste tires and material which is derived from waste tires stored at the facility at any time; and**
  - (b) The possibility of having to hire another person to perform the work.**
- 2. The estimate of costs must be approved by the solid waste management authority and revised annually to adjust for inflation.**
- 3. The owner or operator of the facility shall demonstrate adequate financial assurance to close the facility based on the estimate of costs set forth in subsection 1.**

*4. The owner or operator of the facility shall increase the estimate of costs for closure and the amount of financial assurance provided if changes in the plan for closure or conditions at the facility increase the maximum costs of closure.*

*5. The owner or operator of the facility may reduce the estimate of cost for closure and the amount of financial assurance if the estimate of costs exceeds the maximum costs of closure at any time during which the facility will remain in operation. An owner or operator who wishes to reduce an estimate shall notify the solid waste management authority that the justification for reducing the estimate of costs for closure and the amount of financial assurance has been noted in the records required to be kept by section 21 of this regulation.*

*Sec. 25. 1. Except as otherwise provided in subsection 2, the owner or operator of a facility for the management of waste tires shall demonstrate financial assurance in the manner prescribed in NAC 444.68525.*

*2. The solid waste management authority may approve an alternate plan for demonstrating financial assurance if the alternate plan complies with the requirements set forth in NAC 444.6859.*

*Sec. 26. A solid waste management authority shall inspect a facility for the management of waste tires after it receives notification that closure of the facility has been completed. If the requirements of the plan for closure have been met, the solid waste management authority shall notify the owner or operator of the facility and the person who is providing financial assurance, in writing, that the person providing financial assurance is no longer required to continue to demonstrate financial assurance.*

*Sec. 27. 1. A hauler of waste tires shall obtain a registration number from the solid waste management authority by July 1, 1995, or 14 days before beginning operation, whichever is later. The hauler of waste tires shall display his registration number on the vehicle he uses to transport waste tires or material derived from waste tires.*

*2. Each hauler of waste tires who applies for a registration number must complete an application on a form prescribed by the solid waste management authority. The application must include:*

- (a) The permit number issued to the hauler of waste tires by the public service commission of Nevada; and*
- (b) The license number and the name of the registered owner of the vehicle used to transport waste tires or material derived from waste tires.*

*3. A registration number for a hauler of waste tires issued by a solid waste management authority must be recognized by any other solid waste management authority.*

*4. A hauler of waste tires who obtains a registration number pursuant to this section is required to comply with any other applicable requirements adopted by a local government for a permit.*

*Sec. 28. 1. A hauler of waste tires shall initiate a manifest to transport waste tires from the place where he takes possession of the waste tires from a generator of waste tires to the place where he deposits the waste tires at a facility for the management of waste tires or a disposal site approved by the solid waste management authority. The manifest shall include the:*

- (a) Name of the generator of the waste tires;*
- (b) Passenger tire equivalents or total tons of waste tires to be transported;*
- (c) Name and registration number of the hauler of waste tires;*
- (d) Date of transport;*
- (e) Destination of the waste tires; and*
- (f) Signatures of the generator of the waste tires, hauler of the waste tires and operator of the facility for the management of waste tires or disposal site approved by the solid waste management authority.*

*2. The hauler of waste tires shall:*

- (a) Provide the owner or operator of the facility for the management of waste tires or the disposal site approved by the solid waste management authority with a completed copy of the manifest; and*
- (b) Return a completed copy of the manifest to the generator of the waste tires not later than 30 days after the date the hauler of the waste tires takes possession of the waste tires.*
- 3. A hauler of waste tires who fails to comply with the provisions of this section may be subject to enforcement action, including the revocation of his registration number.*

*Sec. 29. 1. A hauler of waste tires shall submit semiannual reports with the solid waste management authority. The first report must be submitted for the reporting period beginning July 1, 1995, and ending December 31, 1995. Subsequent reports must be submitted semiannually thereafter. The hauler shall submit each report within 30 days after the end of the reporting period on a form prescribed by the solid waste management authority. The report must include:*

- (a) The registration number of the hauler of waste tires;*
  - (b) The type and quantity of waste tires collected during the reporting period;*
  - (c) The destination of the waste tires collected; and*
  - (d) The names of the generators of the waste tires or premises from which the waste tires were collected.*
- 2. A hauler of waste tires who fails to comply with the provisions of this section may be subject to enforcement action, including the revocation of his registration number.*

*Sec. 30. 1. Except as otherwise provided in subsection 2, a generator of waste tires shall not enter into a contract to have waste tires collected after July 1, 1995, with a person who is not a registered hauler of waste tires.*

*2. A generator of waste tires may haul the waste tires he generates or contract with a collector of solid waste who operates pursuant to a license issued by a local government to collect those waste tires. A generator of waste tires shall maintain receipts for the disposition of its waste tires for at least 3 years. The generator of waste tires shall make the receipt available for inspection by the solid waste management authority during regular business hours and shall list the number, weight or volume of waste tires disposed of in this manner.*

**END OF PETITION 94019 (LCB R116-94)**